

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition Nos.27836 to 27844 of 2016
and
W.M.P.Nos.24004 to 24021 of 2016

V.Manickam ... Petitioner in WP.27836/2016
C.Kasturi Petitioner in WP.27837/2016
D.Vasanthi Petitioner in WP.27838/2016
B.Jothi Petitioner in WP.27839/2016
S.Manjula Petitioner in WP.27840/2016
S.Ravi Petitioner in WP.27841/2016
S.K.Raghu Petitioner in WP.27842/2016
Secretary,
A/m. Om Sri Muthumariamman
Aalaya Thirupani Seva Sangam
N.Dharmaraju Petitioner in WPs.27843/2016
and 27844/2016

Vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Deputy Tahsildar,
Saidapet,
Chennai-600 015.
3. The Junior Engineer,
Irrigation Section,
Cholavaram (WRO)
Red Hills, Chennai- 600 052.

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4. The Section Officer,
Water Resource Department,
Irrigation Section,
Red Hills, Chennai - 600 052.

...Respondents in all WPs

WP.Nos.27836 to 27841 of 2016 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notices in No.K-11/B.A/2016/07/2016 of the fourth respondent dated 15.07.2016 and quash the same as far as the petitioners are concerned and consequently direct the respondents not to demolish the property or evict the petitioners from survey no.532 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District.

WP.No.27842 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notice in No.K-11/B.A/2016/07/2016 of the fourth respondent dated 15.07.2016 and quash the same as far as the petitioner is concerned and consequently direct the respondents not to demolish the temple or evict the petitioner Society from Survey No.501 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District.

WP.Nos.27843 and 27844 of 2016 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notices in No.K-11/B.A/2016/07/2016 of the fourth respondent dated 15.07.2016 and quash the same and consequently direct the respondents not to evict the petitioner from Survey No.567 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District.

For Petitioners : Mr.V.Raghavachari for
Mrs.V.S.Usha Rani

For Respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

COMMON ORDER

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Heard Mr.V.Raghavachari, learned counsel representing the counsel for the petitioners and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader for the respondents.

2. The petitioners have come forward with these writ petitions to quash the eviction notices dated 15.07.2016 issued by the fourth respondent. They have also sought for a direction to the respondents not to demolish or evict them from their respective properties.

3. The case of the petitioners is that the lands covered in Survey No.567 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District have been classified as "Grama natham" in the revenue records. The petitioners have purchased their respective properties in Thirumullaivoyal Village and they have been in peaceful possession and enjoyment of the same by constructing houses. Subsequently, they have obtained all the necessary connections, such as, electricity service connection, drinking water connection, etc. They have also been issued with family card and Aadhar Card. While so, the respondents had attempted to evict the occupants in the lands in S.No.567 by issuing notices under the Tamil Nadu Land Encroachment Act, wherein, it has been stated that the lands in S.No.567 are "Grama natham" and the said lands were encroached by them. Aggrieved over the same, the occupants had approached this Court by filing a batch of writ petitions in W.P.No.36113 of 2007 etc. and obtained an order of status quo. Pending the said writ petitions, the fourth respondent has issued notices dated 15.07.2016 in Form III under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act and Rules, 2007, calling upon the occupants to remove the encroachment within 21 days, alleging that they have encroached upon 'Eri Poramboke' situated in Survey No.567 called as 'Arabath Eri', which is a water catchment area belonging to the Public Works Department of Water Resources organization, failing which, the department would remove the same and collect the expenditure from the occupants. Aggrieved over the same, the petitioners are before this Court with the present writ petitions.

4. Learned counsel for the petitioners submitted that the lands covered in Survey No.567 of Thirumullaivoyal Village have been classified as "Grama Natham" in the revenue records and not as "Eri poramboke" as alleged by the respondents. He further submitted that the petitioners have not at all encroached upon any poramboke land and they have purchased their respective properties by valid sale deeds and have been in peaceful possession and enjoyment of the same by constructing houses and by obtaining all the necessary connections. Therefore, the impugned notices issued by the fourth respondent are liable to be set aside.

5. Learned Special Government Pleader reiterated the averments raised in the common counter affidavit filed by the respondents. It is stated therein that as per the Revenue records 1919, the lands in Survey No.567 of Thirumullaivoyal Village, Avadi Taluk, Tiruvallur District have been classified as 'Eri', which comes under the maintenance of the Public works department. It is further stated therein that since the post of Zonal Deputy Tahsildar has been created only in the year 1991 by G.O.Ms.No.92 Revenue Department dated 15.06.1991, the so called eviction notices issued by the Zonal Deputy Tahsildar, Ambattur, in the year 1981 stating that the lands in S.No.567 have been classified as "Grama Natham", are fabricated documents and the veracity of the same is very much doubted. The counter affidavit also proceeds to state that the petitioners have encroached the water catchment area and constructed pucca houses. If such encroachment is not removed, it will be a problem for free flow of water during rainy season and ultimately, the public at large will be affected.

6. We have considered the submissions made on either side and perused the materials placed before us.

7. In these writ petitions, the petitioners have challenged the impugned eviction notices dated 15.07.2016 issued by the fourth respondent, to which, they have already submitted their reply on 12.08.2016. In such circumstances, it is for the respondents to consider the reply dated 12.08.2016 submitted by the petitioners and take a decision, with regard to removal of encroachment made in S.No.567, in accordance with law, of-course, after affording an opportunity of personal hearing to the petitioners as well as to all the parties, who are likely to be affected. It is open to the petitioners to raise all their submissions along with supporting documents to the respondents at the time of personal hearing. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

8. Accordingly, all the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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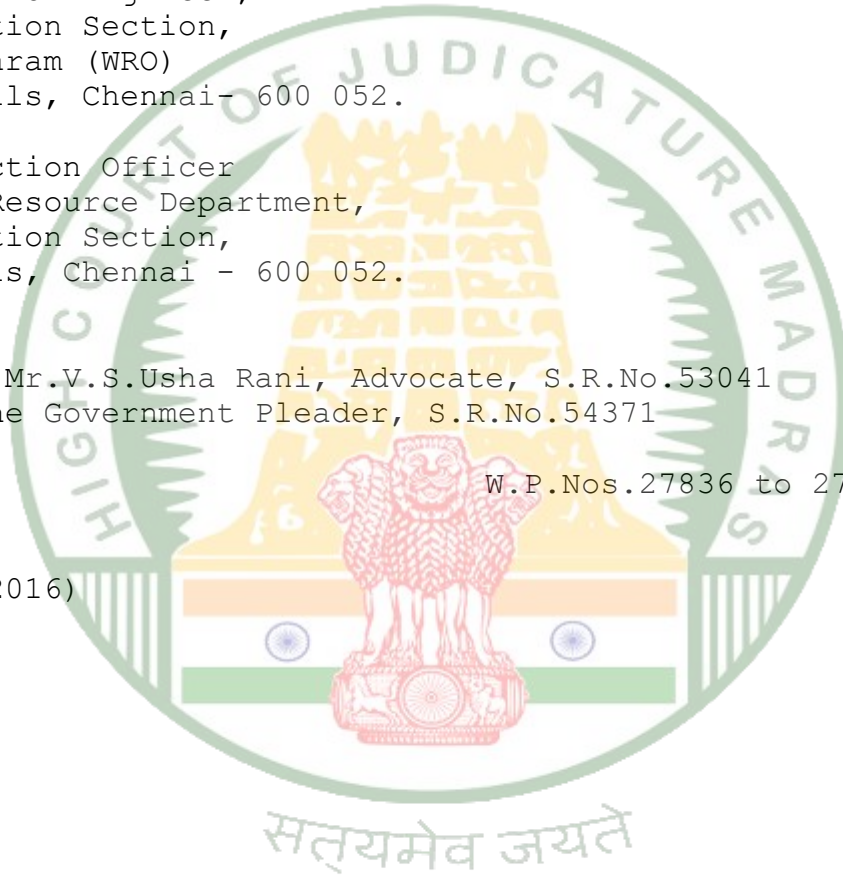
To

1. The District Collector,
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2. The Deputy Tahsildar,
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Chennai-600 015.
3. The Junior Engineer,
Irrigation Section,
Cholavaram (WRO)
Red Hills, Chennai- 600 052.
4. The Section Officer
Water Resource Department,
Irrigation Section,
Redhills, Chennai - 600 052.

+9cc's to Mr.V.S.Usha Rani, Advocate, S.R.No.53041
+1cc to the Government Pleader, S.R.No.54371

W.P.Nos.27836 to 27844 of 2016

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